**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 21704 of 2005**

**For Approval and Signature:**

**HONOURABLE MS. JUSTICE R.M.DOSHIT**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**BHARAT PRAVINCHANDRA VYAS & 3 - Petitioner(s)**
**Versus**
**COMMERCIAL CO-OP BANK LTD & 3 - Respondent(s)**

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**Appearance :**
MR JAGDISH H MEHTA for the Petitioners.
Respondent(s) : 1 and 4 SERVED.
MR PREMAL S RACHH for Respondent : 2.
UNSERVED-REFUSED (R) for Respondent : 3.

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**CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT**

**Date : 01/05/2006**

**ORAL JUDGMENT**

The petitioners before this Court are the judgment-debtors. It is not in dispute that the petitioners had borrowed certain loan from the respondents Nos.1 and 2 - Cooperative Banks. To assure the repayment of the loan amount the

petitioners had offered their residential flats in security. In the Lavad Suits Nos.38/1999 and 46/1999 filed before the Board of Nominees by the concerned Banks, by order dated 12th January, 2004 made below application Exh.79, the said flats have been ordered to be attached and sold by public auction.

Feeling aggrieved, three of the petitioners i.e. the petitioners Nos.1,2 and 3 preferred appeal before the Tribunal. The said appeal was barred by period of limitation. The said appellants, therefore, filed Civil Application No.242/2001 for condonation of delay of some 67 days. The cause for delay stated in the application was that the appellants were represented by one of the appellants i.e. the appellant No.3 Shri Ketan Joshi. Rest of the appellants had given power of attorney to the said Shri Ketan Joshi. However, the said Shri Ketan Joshi was on business tour and could not instruct the concerned advocate to prefer appeal. The said application has been rejected by the Tribunal by impugned order dated 10th September, 2003. Feeling aggrieved, the petitioners have preferred the present petition on 26th September, 2005.

While admitting the petition, this Court (Coram: Jayant Patel, J.) has made order as under :

**"Rule returnable on 16th March, 2006.**

**By ad-interim order, it is directed that the petitioner shall deposit the amount of Rs.10,000/- towards probable cost for compensating the delay caused before the Tribunal as well as in preferring this petition from September 2003 to September 2005. The amount shall also be deposited on or before 14th March, 2006."**

Mr.Mehta has appeared for the petitioners. He has submitted that the above referred order dated 27th February, 2006 was intimated to the petitioners and the petitioners were instructed to deposit the sum of Rs.10,000=00 as directed. The petitioners, however, have not responded to Mr.Mehta nor they have deposited the aforesaid sum of Rs.10,000=00 as directed.

The reasons for delay stated in the above referred Application No.242/2001 are too vague to be acceptable by any court or tribunal. The action of the Tribunal in rejecting the said application is wholly justified. No interference is warranted. Moreover, the petition deserves to be dismissed on the grounds of delay, laches and acquiescence also. Besides, the petitioners have not obeyed the aforesaid direction issued on 27th February, 2006.

In above view of the matter, the petition is dismissed with cost. Rule is discharged. The cost is quantified at Rs.5,000=00.

At the request of Mr.Mehta, the communication dated 3rd March, 2006 and the accompanying receipt be maintained on the record of the matter.

**(Ms. R.M.Doshit, J.)**

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